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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,517	06/01/2001	Anette Buschka	000500-301	9594

7590 04/11/2005

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EXAMINER	
COLE, ELIZABETH M	
ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,517

Applicant(s)

BUSCHKA ET AL.

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/2/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/2/05 has been entered.
3. Claims 1-3, 7-10, 29, 31 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ruffo et al, U.S. Patent No. 4,018,646 as set forth in paragraph 3 of the previous rejection.
4. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura et al, U.S. Patent No. 4,018,646 and Fehrer, U.S. Patent No. 4,972,551 as set forth in paragraph 5 of the previous action.
5. Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura in view of Ruffo and Fehrer as applied to claims above, and further in view of WO 97/45083 to Rosseland as set forth in paragraph 6 of the previous action.

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6. Claims 4-6, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffo et al, U.S. Patent No. 4,018,646 as set forth in paragraph 7 of the previous action.

7. Applicant's amendment has overcome the 112 1st paragraph rejection for new matter set forth in the previous action.

8. Applicant's arguments filed 2/2/05 have been fully considered but they are not persuasive. With regard to Ruffo Applicant argues that Ruffo teaches a different material because Ruffo does not teach a porous easily penetrated non-woven gauze. However, Applicant claims cellulose fibers integrated with an air laid non-woven gauze. Ruffo teaches an air laid material wherein cellulose fibers are integrated with an air laid gauze. See col. 22, lines 11-34. Applicant argues that the claimed nonwoven gauze is porous because the card aligns the textile fibers so they are generally aligned in one direction and reduces the number of fiber clumps which are laid on the wire. However, none of these limitations are in the claims. The claims do not include any limitations regarding how the fibers are aligned. The material of Ruffo would necessarily be porous. Further with regard to the means by which the Ruffo material is bonded, the claims do not preclude the use of any mechanical bonding means, but only bonding agents. Finally, Applicant is arguing that in Ruffo the air laid layer of textile fibers can not be sufficiently penetrated by the cellulosic fibers. However, Ruffo clearly teaches at col. 22 that depending on how the position of the baffles is varied a variety of webs can be obtained and that intermixing can occur between the layers. Intermixing would necessarily involve penetration of fibers from one layer into the fibers of another.

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Applicant argues that the two layer structure of Ruffo at col. 22 is different than the claimed invention because the gauze of Ruffo can not be penetrated by cellulose fibers. However it is noted that the claims do not require that the gauze layer be penetrated by cellulose fibers, only that the achieve a sufficient bonding with the textile fibers with any bonding agent. That is not the same as requiring penetration of the layers to a certain degree. Applicant repeatedly asserts that the Ruffo material is different but does not provide any evidence in support of this assertion.

9. With regard to Matsumura, Applicant argues that Matsumura employs a binder. However, the rejection states that while Matsumura teaches a binder, Ruffo teaches a variety of ways in which bonding can be effected on a nonwoven material. See paragraph 10 of the previous office action.

10. Similarly, with regard to Matsumura, Applicant again presents arguments regarding the degree of penetration of the gauze layer by the cellulose fibers. However, as noted above, the claims contain no limitations regarding the penetration of the cellulose fibers into the gauze layer.

11. Applicant argues that Matsumura does not teach employing a carding apparatus. However, Matsumura clearly teaches employing carded fibers. Since carding aligns fibers and a lap compresses fibers it is not clear that compressing carded fibers would negate the benefit obtained from the carding process. Since Matsumura teaches employing carded fibers the rejection is maintained. Further, with regard to Matsumura, Applicant argues that since Matsumura teaches a seal roll which compresses the textile mat the mat would not be able to be penetrated by the cellulosic fibers. However, as

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set forth above, there is nothing in the claims which requires penetration of the cellulosic fibers into the gauze.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.



Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c